

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG
CORPORATION, et al.,

Defendants.

CABELL COUNTY COMMISSION,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG
CORPORATION, et al.,

Defendants.

Civil Action No. 3:17-01362

Hon. David A. Faber

Civil Action No. 3:17-01665

Hon. David A. Faber

NOTICE OF THE FBI AND DEA

The United States submits this Notice in accordance with the Special Master's Order, issued August 28, 2020, concerning the initial review by the DEA and FBI of documents furnished by Plaintiffs on August 17, 2020. Dkt. 895. The United States further reserves its rights to conduct a more thorough review of these documents, and to assert any other and further objections.

Based on the preliminary review of the documents provided by plaintiffs on August 17, 2020, the United States has concluded that the sensitivities contained in a number of these documents at issue cannot be sufficiently protected through a Highly-Confidential Attorney-Eyes-Only Designation.

Annexed hereto as Exhibit 1 is a list of documents initially identified as under court seal or likely under court seal.

Annexed hereto as Exhibit 2 is a list of documents initially identified as relating to likely ongoing law enforcement investigations.

Annexed hereto as Exhibit 3 is a list of documents initially identified as subject to attorney-client, deliberative process, and government work product privileges.

Annexed hereto as Exhibit 4 is a list of documents initially identified as subject to the law enforcement privilege.

Annexed hereto as Exhibit 5 is a list of documents initially identified that identify confidential informants and undercover federal agents, or could lead to the identification of confidential informants and undercover federal agents.

Annexed hereto as Exhibit 6 is a list of documents initially identified that contain DEA and FBI operational plans.

Annexed hereto as Exhibit 7 is a list of documents initially identified as appropriate for production pursuant to a Highly-Confidential Attorney-Eyes-Only Designation.

Examples from those documents listed in each of Exhibits 1 through 6 will be submitted directly to the Special Master for *in camera* review.

Respectfully submitted,

MICHAEL D. GRANSTON
Deputy Assistant Attorney General

MICHAEL B. STUART
United States Attorney
Attorney for the United States
Acting Under Authority Conferred by 28 U.S.C. § 515

By: /s/ Fred B. Westfall, Jr.
FRED B. WESTFALL, JR.
W.Va. State Bar No. 3992
Assistant U.S. Attorney, Civil Chief
300 Virginia Street East, Room 4000
Charleston, WV 25301
(304) 345-2200
(304) 347-5443 (facsimile)
Fred.Westfall@usdoj.gov

JAMIE ANN YAVELBERG
NATALIE A. WAITES
JONATHAN K. HOERNER
J. ANDREW JACO
KELLY E. PHIPPS
DAVID M. SOBOTKIN
United States Department of Justice
Civil Division/Fraud Section
175 N Street, N.E., Room 10.222
Washington, D.C. 20002
(202) 616-2964
Natalie.A.Waites@usdoj.gov

GUSTAV W. EYLER
LISA K. HSIAO
JOCELYN C. HINES
United States Department of Justice
Consumer Protection Branch
450 5th Street, N.W. Ste. 6400-South
Washington, D.C. 20001
(202) 532-4892
Lisa.K.Hsiao@usdoj.gov

Attorneys for U.S. Department of Justice
Federal Bureau of Investigation
Drug Enforcement Administration

CERTIFICATE OF SERVICE

I, Fred B. Westfall, Jr., Assistant United States Attorney, hereby certify that that on September 17, 2020, the foregoing **NOTICE OF THE FBI AND DEA** with the Court using the Court's CM/ECF system, which will send a copy thereof by email to all counsel of record.

/s/Fred B. Westfall, Jr.
Fred B. Westfall, Jr. (W.Va. State Bar No. 3992)
Assistant U.S. Attorney, Civil Chief
300 Virginia Street East, Room 4000
Charleston, WV 25301
(304) 345-2200
(304) 347-5443 (facsimile)
E-mail: fred.westfall@usdoj.gov